IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 13TH AUGUST 2007 / 22ND SRAVANA 1929

WP(C).No. 24538 of 2007(U)

AS.84/2006 of ADDL.DISTRICT COURT, THRISSUR
OS2361/2004 of PRL.MUNSIFF COURT,THRISSUR

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PETITIONER:

KUNJIPENNAMMAL, AGED 61 YEARS,
W/O.KOMBUVEETTIL THANKAMANI ACHARY
CHENGARAMKARA, PATTIMATTOM VILLAGE,
KUNNATHUNADU TALUK.

BY ADV. SRI.T.C.THOMAS

RESPONDENTS:

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1. MANY ACHARI,
AGED 53 YEARS, S/O. PILAPPIYVEETTIL
RAJAPPAN ACHARI, OORKAM VILLAGE, THRISSUR
TALUK.

2. STATE OF KERALA
REP.BY THE CHIEF SECRETARY TO THE
GOVERNMENT, GOVERNMENT OF KERALA.

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 13/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.KRISHNAN, J

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W.P.(C) No.24538 OF 2007

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Dated this the 13th day of August 2007

JUDGMENT

This writ petition is preferred against the judgment of the I Addl.District Judge, Thrissur in A.S.No.84 of 2006. I had perused the records available and I find that the plaint is instituted for realisation of an amount of Rs.27,500/- and therefore the valuation for the suit on the date of institution of the suit is Rs.27,500/-. It is to be the basis for fixing the jurisdictional aspect of the appellate court as well. An Appeal Suit was preferred and it was perfectly maintainable because it exceeded the amount of Rs.10,000/- as contemplated under Section 96 of the Code of Civil Procedure. Under Section 102 of the Code of Civil Procedure, no second appeal shall lie when the subject matter of the original suit is for recovery of money not exceeding Rs.25,000/-. Here, the original suit is for recovery of Rs.27,500/-, which is above Rs.25,000/-. Therefore there is no statutory bar in filing a second appeal. When a second appeal will lie under Section 102 of the C.P.C., it is a matter which has to be considered by the court when it entertains a second appeal.

Therefore the writ petition is disposed of permitting the petitioner to move the second appellate court and for enabling him to do so, the Registry is directed to return the copy of the judgment and decree produced along with the writ petition.

M.N.KRISHNAN, JUDGE

Cdp/-